

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application 14500 of Vasilis N. and Rigo V. Peros, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 7106.11 to change a nonconforming use from a restaurant/deli seating 15 persons, first floor and basement, to restaurant/deli seating 35 persons, first floor and basement, in a R-4 District at premises 320 D Street, N.E., (Square 780, Lot 79)

HEARING DATES: December 10, 1986 and February 11, 1987
DECISION DATE: March 4, 1987

DISPOSITION: The Board GRANTED the application with CONDITIONS by a vote of 3-0 (William F. McIntosh, Maybelle Taylor Bennett, and Paula L. Jewell to grant; Charles R. Norris and Carrie L. Thornhill not present, not voting).

FINAL DATE OF ORDER: April 3, 1987

ORDER

On July 27, 1989, counsel for the applicants filed a motion requesting a waiver of the Board's filing requirements to accept a motion for a modification to the conditions of the subject order more than six months after the final date of the Board's Order. At its public meeting of October 4, 1989, the Board waived its Rules to accept the motion into the record.

The Board granted the application by its Order dated April 3, 1987 subject to seven conditions. Condition No. 1 of the Order reads as follows:

"The operation of the facility shall be limited to the lessee, Olympic Pizza, Inc."

The premises were occupied by Olympic Pizza, Inc. in compliance with the conditions imposed by the Board's Order until March 28, 1989 when the business failed and was closed.

Counsel for the applicant argues that the lessee and the lessee's counsel processed the application with the applicants' permission. However, the applicants were not served with a copy of the final order and were unaware of the condition limiting operation of the facility to Olympic Pizza, Inc. Upon vacation of the premises by Olympic Pizza,

Inc., the applicants renovated the premises for occupancy by a new tenant. Upon application for a new Certificate of Occupancy, the prospective tenant was advised of the Condition limiting the operation of the facility to the prior lessee and so advised the applicants.

The applicants request that the Board delete Condition No. 1 of its Order dated April 3, 1987 in order to permit leasing of the subject premises to new tenants. The operation of the facility would continue to comply with the remaining conditions of the Board's order and would allow only the same, limited use of the premises by any other tenants legally occupying the building. There were no responses to the motion for modification.


Upon consideration of the applicants' motion, the evidence of record and its final Order, the Board concludes that the proposed modification is minor in nature. The capacity, type of use, and area occupied by the facility will not be changed. The material facts relied upon by the Board in granting the application remain the same. No additional zoning relief is required. Accordingly it is ORDERED that the motion is GRANTED and Condition No. 1 of the Board's Order dated April 3, 1987 is hereby deleted. In all other respects, the previous Order of the Board and the conditions imposed thereby shall remain in full force and effect.

DECISION DATE: October 4, 1989

VOTE: 3-0 (William F. McIntosh and Paula L. Jewell to waive the rules and approve the modification; Maybelle Taylor Bennett to waive the rules and approve the modification by proxy; Charles R. Norris and Carrie L. Thornhill not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: OCT 27 1989

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14500order/LJP54

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14500

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, dated OCT 27 1989, and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Clarence Martin, Chairperson
Advisory Neighborhood Commission 6-A
Maury Elementary School
13th & Constitution Ave., N.E. Room 10
Washington, D. C. 20002

Becky Fredricksson
312 D Street, N.E.
Washington, D.C. 20002

Henrietta Braunstein
316 D Street, N.E.
Washington, D.C. 20002

Vasilis N & Rigo V Peros
205 S Oak Street
Falls Church, VA 22046

A handwritten signature in dark ink, appearing to read "ELC", is written over a horizontal line.

EDWARD L. CURRY
Executive Director

DATE: OCT 27 1989